



ANNO VICESIMO SECUNDO

**ELIZABETHAE II REGINAE**

A.D. 1973

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**No. 64 of 1973**

An Act to provide for price control upon certain land ;  
to amend the Prices Act, 1948-1972 ; and for other  
purposes.

[Assented to 29th November, 1973]

BE IT ENACTED by the Governor of the State of South  
Australia, with the advice and consent of the Parliament thereof,  
as follows:

**PART I**

**PART I**

**PRELIMINARY**

- |                            |  |
|----------------------------|--|
| <b>Short title.</b>        | <b>1.</b> This Act may be cited as the "Urban Land (Price Control) Act, 1973".   |
| <b>Commencement.</b>       | <b>2.</b> This Act shall come into operation on a day to be fixed by proclamation.   |
| <b>Arrangement of Act.</b> | <b>3.</b> This Act is arranged as follows:—<br><b>PART I—PRELIMINARY</b><br><b>PART II—ADMINISTRATION</b><br><b>DIVISION I—THE COMMISSIONER, ETC.</b><br><b>DIVISION II—THE LAND PRICE TRIBUNAL</b><br><b>PART III—CONTROL OF THE PRICE OF URBAN ALLOTMENTS</b><br><b>PART IV—APPEALS</b><br><b>PART V—MISCELLANEOUS PROVISIONS.</b> |

4. The Prices Act, 1948-1972, is amended as shown in the schedule to this Act, and as so amended, may be cited as the "Prices Act, 1948-1973".

Amendment of  
Prices Act,  
1948-1972.

5. (1) In this Act, unless the contrary intention appears—

Interpretation.

"allotment" means a parcel of land that constitutes an allotment for the purposes of the Planning and Development Act, 1966-1972:

"controlled area" means the following parts of the State:—

- (a) the municipalities of Adelaide, Brighton, Burnside, Campbelltown, Elizabeth, Enfield, Gawler, Glenelg, Henley and Grange, Hindmarsh, Kensington and Norwood, Marion, Mitcham, Payneham, Port Adelaide, Prospect, St. Peters, Salisbury, Tea Tree Gully, Thebarton, Unley, Walkerville, West Torrens and Woodville;
  - (b) the District Council districts of Munno Para, East Torrens, Stirling and Noarlunga;
  - (c) the area of the Garden Suburb;
  - (d) the wards known as the Happy Valley, Coromandel, Clarendon and Kangarilla wards of the District Council of Meadows;
  - (e) the portion of the Hundred of Willunga that lies within the District Council district of Willunga;
- and
- (f) any other area declared by regulation under this Act to constitute a controlled area:

"land broker" means a person who is licensed, pursuant to statute, as a land broker:

"legal practitioner" means a person admitted and enrolled as a practitioner of the Supreme Court:

"nominated member" of the Tribunal means a member nominated under paragraph (b) of subsection (2) of section 7 of this Act:

"possession", in relation to land, means actual possession of the land, or entitlement to possession of the land:

"proprietary interest" in land means an interest (including an interest held jointly or in common) constituting at law or in equity an estate of fee simple, or a life estate, in the land:

PART I

“the Commissioner” means the person for the time being holding, or acting in, the office of Commissioner of Land Price Control under this Act:

“the control period” means the period commencing on the 20th November, 1973:

“the Tribunal” means the Land Price Tribunal constituted under this Act:

“vacant allotment of residential land” means any allotment—

(a) of less than one-fifth of a hectare in area;

and

(b) upon which no dwellinghouse has at any time been, or is being, erected,

but does not include any such land—

(c) upon which are situated premises genuinely used, or intended for use, as a factory, workshop, warehouse or shop, or for other industrial or commercial purposes;

(d) upon which are situated premises genuinely used, or intended for use, as an office or rooms for the conduct of any business or profession;

(e) upon which are situated premises used, or genuinely intended for use, as a hall or place of public entertainment;

(f) upon which are situated premises genuinely used, or intended for use, as a place of public worship;

or

(g) upon which premises are situated in respect of which a licence under the Licensing Act, 1967-1972, is in force.

(2) The Governor may, by regulation, declare that any area specified in the regulation constitutes a controlled area.

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## PART II

PART II

## ADMINISTRATION

## DIVISION I—THE COMMISSIONER, ETC.

DIVISION I

6. (1) There shall be a Commissioner of Land Price Control.
- (2) The Commissioner shall hold office subject to and in accordance with the Public Service Act, 1967-1972.
- (3) The Governor may, subject to and in accordance with the Public Service Act, 1967-1972, appoint such other officers as may be necessary or expedient for the administration of this Act.
- (4) The Commissioner may, by instrument in writing, delegate any of his powers or functions under this Act to any other person.
- (5) Any delegation under this section shall be revocable at will and shall not derogate from the power of the Commissioner to act personally in any matter.

The  
Commissioner  
and other staff.

## DIVISION II—THE LAND PRICE TRIBUNAL

DIVISION II

7. (1) There shall be a Tribunal entitled the "Land Price Tribunal".
- (2) The Tribunal shall consist of three members, appointed by the Governor, of whom—
- (a) one, who shall be the Chairman of the Tribunal, shall be a person holding judicial office under the Local and District Criminal Courts Act, 1926-1972;
- (b) two shall be persons with wide knowledge of, and experience in the valuation of land, nominated by the Minister.

Establishment  
of the Tribunal.

8. (1) The Chairman of the Tribunal shall be appointed for such term of office as the Governor may determine and specifies in the instrument of his appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.

The Chairman.

- (2) The Governor may appoint a person holding judicial office under the Local and District Criminal Courts Act, 1926-1972, to be a deputy of the Chairman, and such a person, while acting in the absence of the Chairman, shall have all the powers, authorities, duties and obligations appertaining to the office of Chairman.

9. (1) A nominated member of the Tribunal shall be appointed for such term of office as the Governor may determine and specifies in the instrument of his appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.

Terms and  
conditions  
upon which  
nominated  
members hold  
office.

**PART II**  
**DIVISION II**

(2) The Governor may appoint a suitable person to be a deputy of a nominated member of the Tribunal, and such a person, while acting in the absence of that member, shall be deemed to be a member of the Tribunal, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(3) The Governor may remove a nominated member from the Tribunal from office for—

- (a) mental or physical incapacity;
- (b) neglect of duty;
- or
- (c) dishonourable conduct.

(4) The position of a nominated member of the Tribunal shall become vacant if—

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by written notice addressed to the Minister;
- or
- (d) he is removed from office by the Governor pursuant to subsection (3) of this section.

(5) Upon the office of a nominated member of the Tribunal becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a nominated member of the Tribunal becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

**Allowances  
and expenses.**

**10.** The members of the Tribunal shall be entitled to receive such allowances and expenses as may be determined by the Governor.

**Validity of  
acts of the  
Tribunal.**

**11. (1)** An act or proceeding of the Tribunal shall not be invalid by reason only of a vacancy in its membership.

(2) No liability shall attach to a member of the Tribunal for any act or omission by him, or by the Tribunal, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge, or purported discharge, of his or its duties under this Act.

**PART II**  
**DIVISION II**  
The Chairman,  
etc.

**12.** (1) The Chairman shall preside at the hearing of any proceeding by the Tribunal.

(2) Subject to subsection (3) of this section a decision in which any two members of the Tribunal concur shall be a decision of the Tribunal.

(3) The Chairman shall determine any question relating to the admissibility of evidence, and any other question of law or procedure.

**13.** (1) There shall be a Registrar of the Tribunal.

The Registrar.

(2) The Registrar shall be appointed and shall hold Office subject to and in accordance with the Public Service Act, 1967-1972.

(3) The office of the Registrar may be held in conjunction with any other office in the Public Service of the State.

### PART III

**PART III**

#### CONTROL OF THE PRICE OF URBAN ALLOTMENTS

**14.** Where—

Land to which  
this Part  
applies.

(a) any land constitutes a vacant allotment of residential land situated in a controlled area;

and

(b) either—

(i) the allotment was created during the control period by subdivision or re-subdivision of a larger parcel of land;

or

(ii) the holder of a proprietary interest in the allotment acquired his interest in the allotment during the control period (otherwise than by way of gift or devise from a person who had held the interest before the commencement of the control period),

this Part applies to that land.

**15.** (1) Except as provided by this Act, a person shall not, without the consent in writing of the Commissioner, enter into a transaction—

Certain land  
transactions  
forbidden  
without  
consent of the  
Commissioner.

(a) for the sale and purchase of any land to which this Part applies;

- (b) by which an option for the purchase of any land to which this Part applies is conferred;
  - (c) by which a lease of any land to which this Part applies is conferred;
  - (d) by which any lease of land to which this Part applies is transferred or assigned;
- or
- (e) by which any land to which this Part applies is otherwise acquired by any person.

(2) Notwithstanding the provisions of subsection (1) of this section, it shall be lawful for a person to enter into a contract or agreement that constitutes a transaction to which subsection (1) of this section applies subject to the consent of the Commissioner being obtained, and in that event—

- (a) no contravention of this section is committed if an application for the consent of the Commissioner is made within three months after the day on which the contract or agreement is made;

but—

- (b) the contract or agreement shall be void *ab initio* if the Commissioner refuses his consent thereto.

(3) No consent is required under this section for any of the following transactions:—

- (a) a transaction under which an option for the purchase of land is conferred where the period within which the option may be exercised is limited to one month or less of the taking of the option and the consideration for the option does not exceed in amount or value one-half of one per cent of the purchase price of the land;
- (b) a transaction under which land is acquired by way of gift;
- (c) a transaction under which land is acquired upon sale under a writ, order, or warrant of execution issued out of any court;
- (d) a transaction under which land is sold by a mortgagee acting in pursuance of powers arising from a mortgage over the land;
- (e) any transaction by way of renewal or extension of a lease that was in existence before the commencement of the control period;

- (f) any transaction entered into before the commencement of this Act, or any transaction to give effect to a contract or agreement in writing entered into before the commencement of this Act;
- (g) any transaction—
- (i) by way of mortgage or sub-mortgage;
  - (ii) by way of discharge of a mortgage or sub-mortgage;
- or
- (iii) by way of transfer or assignment of a mortgage to a guarantor who, in pursuance of the terms of his guarantee, has repaid the sums due under the mortgage;
- (h) any transaction for vesting in the personal representative of a deceased person, in his capacity as such, any property or any interest in any property;
- (i) any transaction for vesting any property, or any interest in property, in a trustee of the estate of a deceased person, in a trustee in bankruptcy, or in a new trustee under any instrument, in his capacity as trustee;
- (j) any transaction that is without consideration in money or money's worth and the purpose of which is to vest property, or an interest in property, in any person beneficially entitled thereto under or by virtue of any will or intestacy;
- (k) the execution of any deed or assignment under the *Bankruptcy Act 1966* of the Commonwealth;
- (l) any transaction for the sale and purchase of an allotment where—
- (i) the allotment has been created by subdivision or re-subdivision of a parcel of land not exceeding one-half of a hectare in area and the allotment has not been previously sold as a separate allotment;
- and
- (ii) the vendor held a proprietary interest in the allotment prior to the commencement of the control period;
- (m) any transaction for the sale and purchase of land where the consideration in respect of the sale does not exceed the aggregate of the following amounts:—



- (i) the price paid by the vendor upon his acquisition of the land;
- (ii) any amount paid by the vendor upon his acquisition of the land in respect of stamp duty or registration fees payable under the Stamp Duties Act, 1923-1971, or the Real Property Act, 1866-1972;
- (iii) any amount (not exceeding an amount fixed by regulation) paid by the vendor to a legal practitioner or land broker in respect of professional services rendered in relation to the acquisition of the land;
- (iv) compound interest at the prescribed rate of interest (as in force when the contract is executed by the purchaser) on the aggregate of the amounts referred to in the preceding subparagraphs calculated in respect of the period from (and including) the day on which the vendor obtained possession of the land to the day on which the contract of sale is entered into and a further period of ninety days;

and

- (v) the amount of any rates, taxes or imposts imposed pursuant to statute upon, or in respect of, the land and paid by the vendor but where the vendor has not had possession of the land for the whole of the period for which rates and taxes have been paid, the foregoing amount shall include only a proportionate amount of those rates and taxes calculated in the proportion that the period of the vendor's possession of the land bears to the whole of the period for which rates and taxes have been paid.

(4) In this section—

“the prescribed rate of interest” means the rate (expressed as a percentage per annum) fixed by the Governor of the Reserve Bank of Australia as the maximum rate of interest that may be charged by trading banks upon bank overdrafts.

Application  
for consent.

**16. (1) An application for the consent of the Commissioner under this Part—**

- (a) must be made in the prescribed manner and form;
- and
- (b) must contain the information required by the form.

(2) The Commissioner may require an applicant for his consent under this Part to furnish him with such other information as he considers necessary to enable him properly to decide the application.

(3) The Commissioner may require an applicant for his consent under this Part to verify any information that he is required to furnish by statutory declaration.

17. (1) Where an application is made for the consent of the Commissioner to any transaction for which his consent is required under this Part, the Commissioner may in his discretion—

(a) grant his consent, either unconditionally or subject to such conditions as he thinks fit;

or

(b) refuse to grant the consent.

(2) The Commissioner shall not refuse to grant his consent to any land transaction, and shall not give his consent subject to conditions, except for the purpose of giving effect to a policy of limiting increases in prices of land.

(3) In imposing any condition limiting the consideration in any transaction involving any interest in an allotment that has been newly created by subdivision or re-subdivision the Commissioner—

(a) shall have regard to the consideration obtained in transactions relating to comparable land to which this Act applies;

and

(b) where a party to the transaction—

(i) has held a proprietary interest in the land for more than five years, shall fix a consideration that is fair in comparison with the consideration obtained in those transactions;

or

(ii) has held a proprietary interest in the land for a period of five years or less, shall fix a consideration that allows a fair margin of profit.

18. (1) Subject to this section, where any transaction is entered into in contravention of this Part, or where any condition imposed in respect of a transaction pursuant to this Part, is not complied with, the transaction shall not thereby be invalidated, and the rights, powers and remedies of any person in respect of that transaction shall be unaffected by this Act.

Validation of transactions.

(2) Nothing in this section shall affect the liability of any person to any penalty in respect of any contravention of this Act.

**PART III**

(3) Where any person has recovered consideration in respect of a transaction in excess of the amount that he is lawfully entitled to recover in accordance with this Part, the person who has paid or given the excess consideration may, notwithstanding that he is, or may be, concerned in a contravention of this Act in relation to the transaction, recover the amount or value of the excess consideration as a debt from the person to whom it was paid or given by action in any court of competent jurisdiction.

(4) The court in which any action is brought in pursuance of subsection (3) of this section may, if it considers that the circumstances of the case justify it in doing so, refuse to give judgment for the plaintiff, or give judgment for the plaintiff in respect of part only of the amount claimed.

**PART IV****PART IV  
APPEALS**

Appeal against  
decisions of  
the Com-  
missioner.

19. (1) Any person who is aggrieved by a decision of the Commissioner under this Act to refuse his consent or to grant his consent subject to conditions may within thirty days after he receives notice of the decision, or such longer time as may be allowed by the Tribunal, appeal to the Tribunal against the decision.

(2) Upon the hearing of an appeal under this Part, the Tribunal may reverse the decision of the Commissioner or vary the decision in such manner as it considers just.

Proceedings  
before the  
Tribunal.

20. (1) The Tribunal shall give to any person who is a party to an appeal instituted before the Tribunal reasonable notice of the time and place at which it intends to hear those proceedings, and shall afford any such person a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses, and to make submissions to the Tribunal.

(2) If a person to whom notice has been given pursuant to subsection (1) of this section does not attend at the time and place fixed by the notice, the Tribunal may hear the proceedings in his absence.

(3) The Commissioner may appear in any proceedings before the Tribunal.

(4) The Commissioner and any party to proceedings before the Tribunal shall be entitled to appear personally or by counsel.

Powers of the  
Tribunal.

21. (1) In any proceedings under this Act, the Tribunal may—

(a) by summons signed on behalf of the Tribunal by a member of the Tribunal, require the attendance before the Tribunal of any person;

(b) by summons signed on behalf of the Tribunal by a member of the Tribunal, require the production of any books, papers or documents;

- (c) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of any of them, or of any of their contents;
- (d) require any person to make oath or affirmation that he will truly answer all questions put to him by the Tribunal relating to any matter being inquired into by the Tribunal (which oath or affirmation may be administered by any member of the Tribunal);

or

- (e) require any person appearing before the Tribunal, including the person whose conduct is subject to an inquiry, (whether he has been summoned to appear or not) to answer any relevant questions put to him by any member of the Tribunal, or by any other person appearing before the Tribunal.
- (2) Subject to subsection (3) of this section, if any person—
- (a) who has been served with a summons to attend before the Tribunal fails without reasonable excuse (proof of which shall lie upon him) to attend in obedience to the summons;
  - (b) who has been served with a summons to produce any books, papers or documents, fails without reasonable excuse (proof of which shall lie upon him) to comply with the summons;
  - (c) misbehaves himself before the Tribunal, wilfully insults the Tribunal or any member thereof, or interrupts the proceedings of the Tribunal;

or

- (d) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Tribunal,

he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(3) A person shall not be obliged to answer a question put to him under this section if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

(4) In any proceedings the Tribunal shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms and it shall not be bound by the rules of evidence, but may inform itself on any matter in such manner as it thinks fit.

22. As soon as practicable after the Tribunal has reached a decision in any proceedings it shall give a written judgment setting forth the reasons for its decision and shall cause copies of that judgment to be sent to all parties to those proceedings.

Reasons for  
decision of  
Tribunal to  
be given.

PART V

## PART V

## MISCELLANEOUS PROVISIONS

**Exemption.**

**23.** (1) The Governor may, by proclamation, exempt from the application of this Act (unconditionally or upon such conditions as may be specified in the proclamation)—

(a) any transaction or class of transaction;

(b) any land, or class of land;

or

(c) any person or class of persons,

and the application of this Act shall be modified accordingly.

(2) The Governor may, by subsequent proclamation, vary or revoke any proclamation under this section.

**Duty to comply with conditions.**

**24.** Where any consent or exemption is granted under this Act subject to conditions, the person in favour of whom the consent or exemption has been given shall comply with all such conditions as are applicable to him.

Penalty: Five hundred dollars.

**Certificate to be given on instrument of transfer.**

**25.** (1) Any instrument of transfer relating to land and submitted to the Registrar-General for registration must be endorsed with a certificate, signed by a legal practitioner or land broker, certifying—

(a) that the transaction to which the instrument relates is unaffected by the provisions of this Act;

or

(b) that the transaction to which the instrument relates is affected by the provisions of this Act but that he is not aware of any circumstances by virtue of which the transaction contravenes any of those provisions.

(2) Any instrument of transfer relating to land to which this Act applies and submitted to the Registrar-General for registration must be accompanied by statutory declarations in the prescribed form made by the transferor and the transferee stating that the consent required under this Act has been obtained, or that no such consent is required under this Act, in respect of the transaction to which the instrument relates.

(3) Where the transferor or transferee under any such instrument of transfer is a body corporate a statutory declaration may be made under subsection (2) of this section by an officer or employee of the body corporate who has been authorized by the body corporate to make the declaration on its behalf.

(4) A person who gives a false certificate under subsection (1) of this section, with knowledge of its falsity, shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for twelve months.

26. (1) Any person who—

(a) is a party to a transaction prohibited by this Act, or who counsels or procures any such transaction or aids or abets any person in entering into any such transaction;

or

(b) enters into any transaction or makes any contract or agreement (either orally or in writing) the purpose or effect of which is either directly or indirectly to defeat or evade the operation of this Act in any respect,

Offences  
relating to land  
transactions.

shall be guilty of an offence against this Act and liable to a penalty not exceeding two thousand dollars or imprisonment for twelve months.

(2) A legal practitioner shall not be held to be guilty of any offence against this Act by reason of any advice tendered, or act done, in good faith and in the ordinary course of legal practice.

(3) Any person who, with intent to evade any provision of this Act, destroys, mutilates, defaces, hides, or removes any book, document or paper shall be guilty of an offence against this Act and liable to a penalty not exceeding two thousand dollars or imprisonment for twelve months.

27. (1) Where a person who is a legal practitioner or land broker, or is licensed or registered under the Land Agents Act, 1955-1964, is guilty of an offence against this Act, or aids, abets, counsels or procures any such offence, then (in addition to any other penalty to which he may be liable) there shall be proper cause for his disbarment, or the revocation of his licence or registration.

Disciplinary  
action against  
certain persons.

(2) This section does not limit the discretion of the Supreme Court or a disciplinary authority—

(a) to refrain from taking disciplinary action;

or

(b) to take disciplinary action of lesser severity than that referred to in subsection (1) of this section,

in appropriate circumstances against a person to whom subsection (1) of this section is applicable.

**PART V**

Summary disposal of proceedings.

**28.** Proceedings for an offence against this Act (except an offence punishable by imprisonment) shall be disposed of summarily.

Regulations.

**29.** (1) The Governor may make such regulations as he considers necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

(a) prescribe any form for the purposes of this Act;

(b) make any provision that may be necessary or expedient to prevent evasion of this Act;

and

(c) prescribe penalties (recoverable summarily) not exceeding five hundred dollars for breach of any regulation.

Expiry of this Act.

**30.** This Act shall expire on the thirty-first day of December, 1976.

Section 4.

### THE SCHEDULE

#### AMENDMENT OF THE PRICES ACT, 1948-1972

The following amendments are made to the Prices Act, 1948-1972:—

(a) Section 3 is amended by striking out the definitions of "approved valuer" and "land transaction";

(b) Section 5 is amended—

(i) by striking out subsection (2);

and

(ii) by striking out the passage "or the Deputy Commissioner of Land Tax" wherever it occurs in subsections (3) and (4);

(c) Section 8 is amended by striking out from subsection (1) the passage "or to any land";

(d) Section 53 is amended by striking out the proviso;

(e) The following sections are repealed:—

section 18;

sections 34 to 42 (inclusive).

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor